

The First serving in CV-04-9193GAF: The summons and complaint was sent by FedEx Express, on November 10, 2004, to the City Attorney, care of Robert Cramer, Assistant City Attorney. Note, the word Mayor" as mention by the City does not appear anywhere in California Code of Civil Procedures, section 416.50.

The Summons and complaint was signed for by L. Jackson, a woman employed as a receptionist by the City Attorney's Office, on November 12, 2004. Ms. Jackson also signs "Proof of Service" for the City. The City Attorney is an elected official, therefore, must be considered by California State law sec. 416.50.(a): "or other head of its governing body." Also, in accord with Docket #12, the very fact the City responded on 12/20/2004 in a Declaration and "Special Appearance" by Assistant City Attorney Robert Cramer, proves the City was properly served, responded late, and in default. (Also see Appendix - H). To further prove my point that the City was properly served, for some not so strange reason Mr. Cramer's name, as the Los Angeles City Attorney appears on the U.S. Supreme Court Docket No.: 04-1420, and on Dockets CV-00-08882GAF and CV-04-9193GAF. (See Docket Entry #12) therefore, by Mr. Cramer responding as a

**"Special Appearance in Opposition to  
Satalich Request for Entry of Default [10]  
filed by Defendant City of Los Angeles.;"**

Accompanied by a Declaration of Robert Cramer, (Entered: 12/21/2004) acknowledged that the City was properly served on November 12, 2004, and in fact, for a second time, in default! See Docket Entry #4. The Appellant contends, for the City to properly respond to the " Petition the Court to reopen CV-77-3047 to hear this noticed show cause as to why Default Judgment should not be awarded to the

Plaintiff," should have filed their response/objection on or before the Court's set due date of 12/2/2004, and not three weeks later on 12/20/2004, or after "default was filed."

Borrowing part of an article from Dr. Charles Heckman "Comments on the Ninth Circuit pro se Task Force Report, Charles W. Heckman, Dr. Sci. A Matter of Justice Coalition (AMOJ)Committee for the Ninth Circuit":

**"Different standards are applied to different litigants.** Powerful plaintiffs/defendants seek to delay litigation until the opponent dies or is forced to end litigation for financial reasons. Some well-represented litigants do not respond to summons until a motion for default has been entered, and judges routinely excuse the failure and refuse to enter default judgment. The same judges are quick to dismiss lawsuits because a pro se plaintiff has missed a deadline by one or two days, even when the cause of delay was beyond the control of the litigant."

#### Also see footnote<sup>3</sup>

Clearly, as outlined by Dr. Heckman, because the Appellant being pro se, Judge Feess allowed the City to do what ever they choose, with impunity, fully knowing in

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<sup>3</sup> **Fundamental role of the judiciary**

"In 1947, Justice William O Douglas wrote that the basic function of any court is to judge the case on the merits. That means that two factors and only two should influence the decision: the law and the facts. If all is functioning as it should, then any case in which the facts indicate that one party must prevail under the law should have only one outcome. This is true regardless of whether or not the party whose case is supported by the law and the facts is represented by counsel."

advance, what the outcome would be. I request this Court to closely examine the dates and order of document entries into CV-04-09193GAF. The out of order filings are attributed to District Judge Gary A. Feess withholding documents, and then **back-dating and doctoring the Docket** before and after the Clerk filed them to favor the City of Los Angeles. **For example:** Take notice of Docket #4, **'before"** filing for default and **"after"** being **doctored by the Court**, to favor Assistant City Attorney Robert Cramer, representing the City of Los Angeles. Especially being "*Modified on 12/16/2004 (lc, ). (Entered: 11/23/2004)*."

**(Docket #4 Before)** as shown on the Pacer System:

**12/10/2004**

4 - "PROOF OF SERVICE Executed by plaintiff California State of, Miro J Satalich, United States of America, upon Los Angeles City of served on 11/12/2004, answer due 12/2/2004. The Summons and Complaint were served by federal express, accepted by receptionist L Jackson, by FRCP statute, upon City Attorneys office. Original Summons not returned. (lc, ) (Entered: 11/23/2004)"

**(Docket #4 After)** as shown on the Pacer System:

**12/18/2004**

4 - "PROOF OF SERVICE Executed by plaintiff Miro J Satalich, upon Los Angeles City of served on 11/12/2004, answer due 12/2/2004. The Summons and Complaint were served by federal express, tracking log and original airbill accepted by receptionist L Jackson, by FRCP statute, upon City Attorneys office, Robert Cramer, assistant City Attorney. Original Summons not returned. (lc, ) Modified on 12/16/2004 (lc, ). (Entered: 11/23/2004)"

Then examine Docket #9, #10 and #11 of how Judge Feess refused to address a critical ruling request by the Appellant (pro se), but did advise (counsel), the Defendant how to escape in #9, then provided all of the tools to stall the case and allow the City to win. All of the following Docket Entries shown were on the Pacer System as of 12/18/2004.

**9** - "MINUTES (In Chambers) Court is in receipt of a document from pro se Plaintiff in this case entitled Plaintiff Requests Ruling from the Court, to determine whether Defendant was Properly Served [5]. Plaintiff is advised that the Court will not issue a advisory opinion on this matter. If Defendant wishes to bring a motion to dismiss pursuant to FRCP 4(m) for improper service, Court will address it at that time IT IS SO ORDERED by Judge Gary A. Feess Court Reporter: None Present. (ir, ) (Entered: 12/15/2004)"

**10** - "REQUEST for Entry of Default by Clerk against Defendant City of Los Angeles filed by Plaintiff Miro J Satalich. (ir, ) (Entered: 12/16/2004)"

**11** - "NOTICE OF DEFICIENCY Re: REQUEST for Entry of Default against Defendant City of Los Angeles [10]. The Clerk cannot enter the requested relief as proof of service did not indicated 1st name of Receptionist and that persons capacity to accept service of process for the City Attorney Officer/City of Los Angeles. Requesting party shall file a new Request/Application with noted

deficiencies corrected in order to have default reconsidered.(ir, ) (Entered: 12/16/2004)"

#### IV.

"As an Appellate Judge presiding over a District Court case, and overseeing a Consent Decree, for more than 20 years, have an obligation to hear Appellant's Title 31 U.S.C. § 3730(h) Motion and Complaint for harassment, or was he obligated to pass it down to be heard by a lower Court?"

Taking dates from Judge Harry Pregerson's biography. The Appellant contends, that on November 2, 1979, when District Judge Harry Pregerson was elevated to the Appellate Court, he should have relinquished all district court cases, including CV-77-3047HP. However, Judge Pregerson hung onto CV-77-3047. Other than loose and unproven rhetoric, the Defendant City of Los Angeles, and/or District Court Judge Gary A. Feess provided no written proof or evidence, that Judge Harry Pregerson was indeed "designate(d) and assign(ed) temporarily" to oversee CV-77-3047HP.

Moreover, any finder of fact would easily conclude, that to oversee a case or "to hold a district court" on the aforementioned case for more than 20 years, could not be considered, by any stretch of the imagination, pursuant to Title 28 U.S.C. § 291 "temporary duty"?

Refer to Title 28 U.S.C. § 47, The legal question is raised: Would the same Appellate Judge oversee a case for more than 20 years have jurisdiction to hear third party challenges, such as my intervention, associated contractors, consultants or other interveners? The Appellant believes not. Based on historical notes in Title 28 U.S.C. § 47 (in part):

"The provision in section 11-205 of the District of Columbia Code, 1940 ed., that a justice of the district court while on the bench of the Court of Appeals in the District of Columbia shall not sit in review of judgment, order, or decree rendered by him below, was consolidated with a similar provision of section 216 of title 28, U.S.C., 1940 ed. The consolidation simplifies the language without change of substance."

The Appellant believes, that the very language of 28 U.S.C. § 47 and it's historical notations clearly squares with this contention, that for an Appellate Judge to sit on a case for more than 20 years, as a district judge, directly conflicts with Title 28 U.S.C. § 291 and Appellate Judge Harry Pregerson's obvious silence to hear the Appellant's interventions. The Appellant begs questions of the Court:

Should Appellate Judge Harry Pregerson have had jurisdiction over CV-77-3047HP for more than 20 years? and; Should Judge Pregerson, instead of ignoring the interventions, have passed the case to a lower District Court to be heard?

**The Appellant's material facts of Appellate Judge Harry Pregerson's intrajudicial and extrajudicial conflicts of interest, are as outlined below:**

- (1) Judge Harry Pregerson's biography shows he was once a City of Los Angeles Municipal Court Judge.
  
- (2) **Refer to Appendix - I.** Letter from U.S. Congressman Steven T. Kukendall, relating to Judge Harry Pregerson's ex-Clerk Felicia Marcus. In 1987, Ms. Marcus left Judge Pregerson to represent ("Heal the Bay") that was a Plaintiff suing the City of Los Angeles in CV-77-3047HP. Then, in a

switch of hats, In 1990, Ms. Marcus was appointed by then, Mayor Tom Bradley, as a Commissioner to the City's Department of Public works, which was overseeing the ACD and reconstruction of the City's Hyperion, the main cause of CV-77-3047 action. In another switch, 1993, Ms. Marcus was appointed by then President Bill Clinton as Director to Region Nine, Environmental Protection Agency, (EPA) the governmental agency furnishing 2.5 billion to the City to reconstruct Hyperion. As noted in sworn testimony back in footnote<sup>1</sup>, Ms. Marcus was the head of the EPA, and was also aware of the Appellant being harassed, yet remained silent.

(3) In case No.: CV-00-08882GAF(PLAx) Docket #34. On April 26, 2001, Judge Gary A. Feess STAYED CV-00-08882GAF citing: "PROCEEDINGS:

"(In Chambers) The Court is in receipt of Plaintiff Satalich's Complaint, as well as the numerous Rule 12 Motions filed in response thereto. The Court notes that many of the allegations raised in Plaintiff's Complaint pertain to the Amended Consent Decree entered into in United States of America, et al. V. City of Los Angeles, CV 77-3047, which has been identified by the parties as a related case. The Court is undertaking an assessment of whether this case should be transferred to Judge Pregerson, who has presided over Consent Decree issues for more than 20 years. Until the this assessment is completed, the proceedings in this case are STAYED and the following hearing dates are VACATED: 1) Defendant Kiewit Pacific Co.'s Motion to Dismiss scheduled on May 7, 2001; 2) Defendant City of Los Angeles's Motion to Dismiss scheduled on

May 14, 2001; and 3) Metcalf & Eddy Service's Motion to Dismiss scheduled on May 21, 2001, until further notice from the Court. IT IS SO ORDERED."

It is not clear whether District Judge Feess contacted Appellate Judge Pregerson or vis-a-versa, however, the Appellant contends that pursuant to Title 28 U.S.C. § 47, Judge Harry Pregerson had no jurisdiction as an Appellate Justice, because of the relationship between CV-77-3047, and CV-00-08882. No mention was made in any of Judge Feess's transfer proposal of obtaining "**temporary**" approval from the 9th Circuit Chief Judge, or Chief Judge of the United States Supreme Court for such assignment, nor were there any hearings held to object to said transfer. The Appellant contends, that by the very nature of the case, Judge Feess's contact with Appellate Judge Harry Pregerson was inappropriate, that caused not only a hostile case environment, but future hostility in Appellate review. The Appellant believes, that by Judge Feess attempting to transfer CV-00-08882GAF to Appellate Judge Harry Pregerson was an intrajudicial conflict of interest. Further, because of the Appellant's objecting to said transfer, caused a hostile Court environment as clearly indicated within the Court Record and subsequent rulings from District Judge Gary A. Feess in CV-00-08882GAF and now, in CV-04-09193GAF.

(4) Also, in the record of CV-00-08882GAF Docket Entry #39, dated of entry: 05-03-2001, titled "**Open Letter To The Court**," pertaining to the Appellant voicing objections to case transfer to Appellate Judge Harry Pregerson, the significant importance of the objection was that it is believed Judge Pregerson had a month to examine all Court documents.

Many City officials were mentioned in the complaint, namely James Hahn, who was the City of Los Angeles City Attorney, for most of the life of CV-77-3047HP. The City Attorney, and his office were fully aware of the Appellant's fraud and harassment complaints filed with City departments, including the City's Ethics Commission and undeniably James Hahn himself. To further solidify conflict of interest allegations, on July 3, 2001 Appellate Judge Harry Pregerson swore-in, newly elected City of Los Angeles Mayor James Hahn, then later attended a swearing-in function. A reasonable person has to wonder, of the ease the City had to contact Judge Pregerson to perform a swearing-in ceremony, yet Judge Pregerson turned a blind-eye and had no time for the Appellant's harassment interventions, and alleged City fraud that he was supposedly overseeing! Clearly, prejudicial intrajudicial and extrajudicial conflicts of interests. This Court will find it very difficult not to tie prejudicial rulings within CV-00-08882GAF and CV-04-9193GAF by Judge Gary A. Feess pertaining to Appellate Judge Harry Pregerson's intrajudicial and extrajudicial conflicts of interests with the Appellant's law suits against the City of Los Angeles and subsequent rulings thereof, as well as not recusing himself, hence SCOTUS No.: 04-1420, (Appendix-H).

(5) To show yet more extrajudicial conflict of interest, on or about 1998, a newly constructed office building within the City of Los Angeles's Hyperion was named after Appellate Judge Harry Pregerson, and still remains as such. Clearly, a conflict of interest with the City of Los Angeles and of rulings in CV-77-3047HP, and one more reason believed why Judge Pregerson closed the case on August 7, 2000.

Referring to all CV-04-09193GAF Docket Entries; The

Appellant is requesting this Court to carefully examine all Docket Entries, which clearly show that contrary to FRCP Rule 79, filed documents were intentionally withheld and filed out of order, to benefit the Defendant by Judge Gary A. Feess. For example: See Docket Entry #31, showing it was stamped, and received on time, 02/04/2005, however, purposely ignored, withheld, filed late, and out of order on 02/08/2005 by Judge Feess to benefit the Defendant.

See Appendix-C. Refer to Docket Entry #30, "Ruling on Motion to Dismiss." After carefully reading and analyzing Docket #30, a finder of fact would clearly determine that Judge Gary A. Feess acted as counsel for the defense. e.g.: See Docket Entry #9, and #31 (Appendix-D), Judge Feess declined to issue the pro se Appellant a clarification ruling, however, advised Robert Cramer, Assistant City attorney to file for dismissal. At that point in time of litigation, the requested ruling was critical to avoid unnecessary expense and case progression, yet ignored by Judge Feess.

**Moreover, Appendix-D shows:** Docket #31 was withheld, and prejudicially ignored, then entered after his ruling of February 8, 2005 and not February 4, 2005, as of date received and attested to. In his dismissal ruling, Judge Feess used biased, prejudicial, abusive, debasing and demeaning language towards the Appellant such as: "novel," "unusual," "absurd," "puzzling" and bizarre argument." The Appellant is a natural born U.S. Citizen, that came into federal Court as a victim and for reasons of redress, and not to be verbally or judicially abused as has occurred in CV-00-08882GAF and unnecessarily in CV-04-9193GAF by Judge Gary A. Feess.

## CONCLUSION

### V.

In the March 19, 1999 attempt to intervene into CV-77-3047HP, the Appellant contends several elements of fact and law. First, in the clear language of the FRCP,<sup>4</sup> all parties were properly served and asserts the City was obligated to respond, and/or defend, and/or object to the intervention, but did nothing. Second, the Appellant asserts, pursuant to Title 28 U.S.C. §§ 47, and 291(b), Appellate Judge Harry Pregerson, for more than 20 years was out his jurisdiction to sit and rule on CV-77-3047, let alone to rule on the Appellant's interventions. Moreover, the Court Record and material evidence submitted, show that Appellate Judge Harry Pregerson was not only in a conflict of interest to protect the City, but because being out of his jurisdiction, purposely ignored the Appellant's filings, twice.

In CV-04-09198GAF "Show Cause," the Defendant, City of Los Angeles was properly served twice with a summons and complaint. In the first serving, (Docket Entry #4) was served on "11/12/2004, answer due 12/2/2004." The City claimed to have not been properly served, yet, were illegally permitted to respond on (see Docket Entry # 12) 12/21/2004 with the term, "Special Appearance," which is, nowhere to be found in the FRCP, and yet, allowed by Judge Feess. The Appellant contends, that when the City responded with their "Special Appearance," the City acknowledged service, and were clearly pursuant to FRCP rule 55, in default.

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<sup>4</sup> According to the plain meaning rule, words must be given their plain, ordinary and literal meaning. If the words are clear, they must be applied, even though the intention of the legislator may have been different or the result is harsh or undesirable.

The City could have very well made a regular "Appearance" on the due date, but did not. In the second serving the Court acknowledged the City being late, then ruled for dismissal. As Dr. Heckman stated, it won't matter anyway, because if your pro se, under all circumstances, your destined to lose.

**PRAAYER  
VI.**

The Appellant prays that the high Court hears this case and rules to make him whole. To remand, and order the lower Court to not set aside, for any reason, and to award default and default judgment, that containing all elements of Title 31 U.S.C. § 3730(h) and special damages, including court costs, and reasonable attorney fees to the Appellant for the amount pled for on 4/24/01 in CV-77-3047HP, and again on 12/14/2004, (Docket #10) in CV-04-9193GAF, as well as, accrued interest from 4/24/01 to 12/14/2004.

Respectfully submitted by,

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Date: November 28, 2005